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Paper No. 19

CARLSON, GASKEY & OLDS  
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SUITE 350  
BIRMINGHAM MI 48009

**COPY MAILED**

In re Application of :  
Joseph F. Loprete, John R. Williams, Gene :  
Michael Fields, and Joe T. Hill :  
  
Application No. 09/090,358 :  
Filed: June 4, 1998 :  
Attorney Docket No. 60.298-038 :  
Title: SCROLL COMPRESSOR WITH :  
MOTOR CONTROL FOR CAPACITY :  
MODULATION :

AUG 21 2002

**OFFICE OF PETITIONS**

This is a decision on the petition filed on April 22, 2002, pursuant to 37 C.F.R. §1.137(b)<sup>1</sup>, to revive the above-identified application.

The above-identified application became abandoned due to the November 19, 2001 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on January 20, 2001, the expiration of the period for seeking judicial review of this decision<sup>2</sup>. A Notice of Abandonment was mailed on February 22, 2002.

With the instant petition, the petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of

<sup>1</sup> A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

<sup>2</sup> See MPEP § 1216.

the filing of an amendment<sup>3</sup>, the payment of the petition fee, and has made the proper statement of unintentional delay.

Petitioner has failed to include the issue fee, and the petition does not contain any authorization to charge petitioner's Deposit Account for any deficiency in fees. Consequently, the petition under 37 C.F.R. §1.137(b) must be **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile<sup>4</sup>. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery<sup>5</sup>), the reply may be mailed<sup>6</sup>.

**The application file will be retained in the Office of Petitions for two (2) months.**

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Paul Shanoski  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>3</sup> The amendment filed with the instant petition has been considered by the Examiner, and has been deemed to place the application in condition for allowance.

<sup>4</sup> (703) 308-6916, Attn: Office of Petitions.

<sup>5</sup> Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

<sup>6</sup> Commissioner for Patents, Box DAC, Washington, DC 20231.